

REMARKS

1. Prosecution History – The instant application was unintentionally abandoned on Jul y7, 2005, as a result of the failure to respond to the Office Action of August 30, 2004. Applicant has filed concurrent herewith, a Petition To Revive, and a responsive amendment to the Office Action of August 30, 2005 – including a set of formal patent drawings.

A. Office Action Of August 30, 2004 -

Objection To Drawings - The Examiner has objected to the drawings initially submitted with this application as failing to comply with 37 USC 1.21(d). This objection has now been obviated with the submission of a set of formal drawings, and the submission of a Substitute Specification, annexed hereto.

Objection To Specification – The Examiner has objected to the specification as lacking proper antecedent basis for the claims, or, alternatively, for the failure of conformance of the language of the claims to the text of the specification. Original claims 1- 6 have been cancelled without prejudice and new Claim 7 presented in place of original independent Claim 6. Antecedent basis for the language of new Claim 7 is evident from the drawings which accompany this application, the Abstract Of The Disclosure, the originally presented claims and text of the specification, specifically, paragraphs [0030] to [0033].

Rejection Over Prior Art –

1. The Examiner has rejected the invention encompassed by original Claims 1-6, now newly presented Claim 7, under 35 USC 103, as unpatentable over *Thompson* (US

2,804,336). The *Thompson* reference discloses an implement, or tool, for picking up trash. The device includes a pistol grip and lever for reciprocal movement of a triangular shape body on the end of the tool to displace trash that is speared on tines which are located on the end of the tool.

The *Thompson* device include a complex spring loaded mechanism in the distal end of the tool shaft for permitting reciprocal movement of the triangular shaped body back and forth over the tines on the end of the tool. The location of this spring loaded mechanism, as proximate to the working end of the tool, is potentially problematic, because of intrusion of debris into this mechanism. Thus, *Thompson* also touts the advantages of his design because it can be readily disassembled and put back together, to facilitate cleaning of debris from this spring loaded mechanism, Col. 3, lines 29-32.

It need not be belabored that the *Thompson* device is anything but a kitchen utensil, let alone a self-cleaning grilling fork. New Claim 7 is clearly distinguishable from *Thompson*, specifically,

- (a) the recitation of the claimed invention in a Jepson format,
- (b) the specific limitations, relative to the displacement means being operatively associated with a reciprocating rod that is directly coupled to the trigger in the pistol grip handle, whereas in *Thompson*, such displacement means is associated with an assembly that is distinct from the reciprocating rod, and indirectly coupled to the reciprocating rod that is coupled to the trigger in pistol grip handle, and
- (c) the placement of the spring loaded mechanism in the pistol grip handle, and remote from the array of tines, to minimize fouling of the spring loaded mechanism with debris associated with the use of the Applicant's device.

The Secondary art adds nothing to primary reference, relative to the subject matter defined by newly presented Claim 7. More specifically, Claim 7 does not recite an “ergonomically shaped” grip or handle. Accordingly, the *Kruskamp* and/or *McCallops* are no longer of any consequence to the patentability of Applicant’s Claim 7.

2. The Examiner’s rejection of the Applications claims under 35 USC 103, over *Thompson* in view of *Naff* is also misplaced. More specifically, the Examiner relies upon *Naff* for his disclosure of a spring loaded mechanism in a pistol grip handle. The substitution of the spring loaded mechanism of *Naff*, within his pistol grip handle, for the spring loaded mechanism in the shaft of the *Thompson* device, is neither taught nor suggested by *Naff*, because the *Thompson* displacement mechanism does not contemplate direct coupling of the moveable shaft of the *Thompson* device to his displacement assembly, but rather requires that the spring loaded to be present in the bottom of the shaft, within displacement assembly of his device. Accordingly, there is no suggestion in either reference to relocate the spring loaded mechanism of *Thompson* to the pistol grip handle, and clearly no such relocation would be functional without also the direct coupling of the *Thompson* displacement assembly to his moveable shaft. Accordingly, the combined teachings of *Thompson* in view of *Naff*, does not render obvious the Applicant’s invention, specifically, newly presented Claim 7.

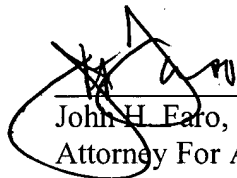
Where the art does disclose various kitchen utensils, e. g. US 3, 233,325 (to Perry – cited of interest by the Examiner in the Conclusion on page 6 of the Office Action), the glaring differences in structure, function and operation are readily apparent. Accordingly, insofar as

the Examiner has not applied any of the references of interest, further elaboration is unnecessary.

Neither the original specification, nor drawings to which they refer include and reference numerals. Accordingly, Applicant has provided a substitute specification, which conforms to the newly presented set of formal drawings. This substitute specification is annexed to this amendment as an Exhibit.

In light of the foregoing amendments and remarks, it is respectfully requested that the Examiner withdraw his rejection and pass the application to allowance. If the Examiner feels an interview with the undersigned would be helpful in resolving whatever difference remain, his is urged to initiate such interview.

Respectfully submitted



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Exhibit

(Substitute Specification)